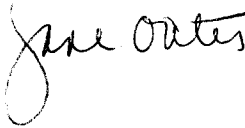


EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC
	CORRESPONDENCE SYMBOL OWI
	DATE September 1, 2009

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 3-09

TO: ALL STATE WORKFORCE AGENCIES
 ALL STATE WORKFORCE LIAISONS
 ALL REGIONAL WOTC COORDINATORS

FROM: JANE OATES 
 Assistant Secretary

SUBJECT: Information and Guidance on the Two New Work Opportunity Tax Credit (WOTC) Targeted Groups Introduced by the American Recovery and Reinvestment Act of 2009

- Purpose.** The purpose of this advisory is to inform the State Workforce Agencies (SWAs) of two new WOTC targeted groups and to provide guidance for the effective and timely implementation of eligibility certification for these new groups.
- References.** The American Recovery and Reinvestment Act of 2009 (Public Law 111-5, Recovery Act); Internal Revenue Code of 1986, Section 51, as amended; Paperwork Reduction Act of 1995; Notice 2009-28, 2009-24 I.R.B. 1082, dated June 15, 2009; Notice 2009-69, which will be published in the Internal Revenue Bulletin on August 31, 2009; the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147); the Tax Relief and Health Care Act of 2006 (Public Law 109-432); the Working Families Tax Relief Act of 2004 (Public Law 108-311); the Small Business and Work Opportunity Tax Credit Act of 2007 (Public Law 110-28); TEGL No. 19-05, dated March 7, 2006, New Streamlined Reporting Requirements and Extension of the Information Collection for the Work Opportunity and Welfare-to-Work Tax Credits; TEGL No. 20-06, dated April 3, 2007, Reauthorization of the Work Opportunity Tax Credit and Other Program Changes; TEGL No. 05-07, dated September 11, 2007, Reauthorization of the Work Opportunity Tax Credit and Other Program Changes; TEGL No. 11-08, dated February 19, 2009, Extension of the Information Collection for the Consolidated Work Opportunity Tax Credit Program: Revised Reporting and Processing Forms; Training and Employment Guidance Letter (TEGL) No. 11-08, Change 1, Extension Period Granted to the State Workforce Agencies and Employers for the Uninterrupted Use of All 2007 and 2008 Work Opportunity Tax Credit

RECISSIONS None	EXPIRATION DATE: Continuing
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Program Processing Forms; ETA Handbook No. 408, November 2002, Third Edition (the Handbook); and the updated November 2008 Addendum to the Handbook (Addendum, OMB No. 1205-0371).

3. **Background.** On February 17, 2009, the President signed into law the American Recovery and Reinvestment Act of 2009 (Recovery Act). Section 1221 of the Recovery Act, (P. L. No. 111-5), amended § 51 of the Internal Revenue Code (IRC) to add two new targeted groups for purposes of the WOTC. The amended Section 51 (d) (14) provides that: unemployed veterans and disconnected youth who begin work for an employer during 2009 or 2010 shall be treated as members of a targeted group for purposes of the WOTC. The June 15, 2009, Notice 2009-28 and Notice 2009-69 that was published on August 31 provide guidance on the statutory definitions of “unemployed veteran” and “disconnected youth,” and provide transition relief for employers who hire unemployed veterans or disconnected youth after December 31, 2008, and before September 17, 2009, if the employer submits the pre-screening notice to the designated local agency to request certification no later than October 17, 2009. Notice 2009-28 and Notice 2009-69 are provided as Attachments A₁ and A₂.
4. **Program Administration.** The Recovery Act did not change the SWAs’ certification and program operation responsibilities from those described in the November 2002, Third Edition of ETA Handbook 408 (The Handbook) and the most recently updated Addendum. These include procedures for: a) determining targeted group eligibility by conducting verification activities and issuing certifications and denials; b) establishing working partnerships with different participating agencies at the state and local levels for resolving technical issues and issuing conditional certifications; c) complying with quarterly report responsibilities; d) complying with records retention time periods; and e) at the regional level, providing technical assistance and conducting oversight visits.
5. **Eligibility Certification for Unemployed Veterans and Disconnected Youth.** New § 51(d)(14) of the IRC provides that unemployed veterans and disconnected youth who begin work for an employer during 2009 or 2010 shall be treated as members of a targeted group for purposes of the WOTC.

Members of the unemployed veterans targeted group are veterans who are certified as: 1) having been discharged or released from active duty at any time during the five-year period ending on the hiring date; and 2) being in receipt of unemployment compensation under a state or federal law for not less than four weeks during the one-year period ending on the hiring date. The term veteran is defined in sec. 51(d)(3)(B)(i) as: (1) having served on

active duty for a period of more than 180 days; or (2) having been discharged or released from active duty for a service-connected disability.

Members of the disconnected youth targeted group are individuals who are certified as: (1) having attained age 16 but not age 25 on the hiring date; (2) not regularly attending any secondary, technical, or post-secondary school during the six-month period preceding the hiring date; (3) not regularly employed during such six-month period; and (4) not readily employable by reason of lacking a sufficient number of basic skills.

To certify the eligibility of the Recovery Act targeted groups, ETA revised Form 9061 by adding the two new targeted groups and the appropriate documentary evidence and/or collateral contacts required for the new targeted group's eligibility determination. The required documentation has been added to page 3 of the form. A copy of the updated Form 9061 is provided as Attachment B. Key changes to ETA Form 9061 are discussed below:

- Unemployed Veterans. Questions to identify unemployed veterans have been added in Box 20. The individual must meet all three criteria to be certified as an unemployed veteran. Criteria and documentary evidence are provided below.
 - (I) To determine that the individual satisfies the definition of veteran (having served on active duty for a period of more than 180 days or having been discharged or released from active duty for a service-connected disability):
 - DD-214, or
 - FL 21-802 (Issued only by DVA, certifies a Veteran with a service-connected disability), or
 - Discharge papers.
 - (II) To determine that the veteran was discharged or released from active duty in the Armed Forces at any time during the five-year period ending on the hiring date:
 - DD-214, or
 - Discharge papers.
 - (III) To determine if a veteran has been in receipt of unemployment compensation:
 - Unemployment Insurance claims records
- Disconnected Youth. Questions to identify disconnected youth are provided in Box 21. The individual must meet all four criteria provided

to be certified as a disconnected youth. Criteria and documentary evidence are provided below:

(I) To determine that the youth is at least age 16 but under 25 on the hiring date:

- Birth Certificate
- Driver's License
- Work Permit
- Copy of Hospital Record of Birth
- School I.D. Card/School Records
- Federal/State/Local Government ID

Where the document listed above does not contain age or birth date, another valid document must be obtained to verify an individual's age.

(II) To determine whether the youth has not been regularly attending any secondary, technical or post-secondary school during the 6-month period before hiring date:

- Signed letter from parent/guardian (if minor) attesting to the information above, and/or
- Self-Attestation explaining that the applicant is not attending or has not attended any secondary, technical, or post-secondary school for more than 10 hours per week during the 6-month period before the hiring date.

(III) To determine whether the youth has not been regularly employed during the 6-month period before hiring date:

- Unemployment Insurance Wage Records

(IV) To determine whether the youth was not readily employable due to lack of basic skills:

- Self-Attestation that the individual does not have a high school diploma or GED, or
- Self-Attestation that the individual has a certificate of graduation from a secondary school or GED that was awarded no less than 6 months preceding the hiring date and has not held a job (other than occasionally) or been admitted to a technical school or post-secondary school since receiving the certificate.

Although self-attestation is allowed to document (II) *Not regularly attending school*, and (IV) *Not readily employable due to lack of basic skills*, it is the

responsibility of the SWA to take reasonable steps to ensure that it has the documentation needed to make a determination to issue a Certification or Denial for all other target groups where self-attestation is not required. While SWAs may accept documentation provided by an employer, for the majority of the WOTC target groups, they may not rely solely on an employer's efforts. The SWAs are strongly encouraged to obtain adequate documentation from participating and other welfare or benefit agencies. If the SWAs' efforts fail to secure needed documentation after a reasonable effort conducted over a reasonable period of time, the SWAs must deny Certification and inform the employer/representative of the reason(s) for the Denial (Handbook, pp. VII-8 and 9).

6. **Determining Not Regularly Employed Status for Disconnected Youth.** IRS Notice 2009-28 defines the legal standard to meet the not regularly employed criteria in the definition of a disconnected youth. A youth meets the unemployment criteria if, during each consecutive three-month period within the six months preceding his or her hiring date, the youth earned less than an amount equal to the gross amount he or she would have been paid at the minimum wage if he or she worked 30 hours every week during the three-month period. This would mean that, if the individual was hired June 1, he or she must pass the test for each of the following periods: December - February, January - March, February - April, and March - May.

To minimize the burden on the state agencies, the IRS and the Department of Labor (DOL) have determined that SWAs need not test an individual's eligibility in each of the three month periods. Instead, SWAs must test the most recent completed calendar quarter. If the individual fails to meet the criteria for the tested quarter, he or she will fail the legal standard. If the individual passes for the tested quarter, he or she will qualify, even though we recognize that he or she could possibly fail the test in another three month period that the SWA did not test. The IRS believes that this modified check is sufficient to identify a substantial proportion of the individuals who are not qualified for the credit.

7. **Accessing Unemployment Insurance Claim and Wage Information.** As discussed in section 5, SWAs will need to use Unemployment Insurance (UI) Claims Records to verify receipt of UI compensation by unemployed veterans, and UI wage records to verify that disconnected youth have not been regularly employed. SWAs must negotiate with their state UI agency to determine the most efficient and effective way to access the UI claims records and wage data.

Claim and wage information is required to be kept confidential by the state UI agency, and may only be disclosed under certain circumstances. State UI agencies may disclose data to public officials, such as the SWAs, in the

performance of their public duties. Depending on the volume of anticipated requests and whether SWAs can provide the state UI agency with an informed consent release, SWAs may have to enter into a data exchange agreement that provides for safeguarding the claim and wage information, provides for reimbursement for the costs to the UI agency of providing the information, and provides penalties for the misuse or unauthorized redisclosure of the information. If only a few requests for claim or wage data are anticipated, it may be easier to obtain an informed consent release from the employee. State UI agencies are not required to obtain reimbursement for providing the requested information if the amount of staff time in responding to the request is incidental and only nominal processing costs are involved in making the disclosure. SWAs choosing to use informed consent releases from employees will need to work with employers to ensure that informed consent releases are collected at the time of hire. Because confidentiality laws vary by state, SWAs should work with their state UI agencies to determine the necessary form and content of the informed consent release.

If the SWA anticipates a greater volume of data requests, the agreement with the state UI agency will include a description of the specific information to be furnished, the purposes for which the information is sought, and information on the method and timing of requests, as well as the format to be used for the requests and responses. To obtain information from the state UI agency, SWAs must provide a Social Security Number for each participant for whom claim or wage data is sought. In those instances where the SWA anticipates a large volume of requests for data, the state UI agency may require that the request be made electronically.

8. **Revised Forms.** Please note that the forms and program materials described below have been updated recently to reflect Recovery Act provisions and other program updates.
 - **IRS Form 8850.** IRS Form 8850, *Pre-Screening Notice and Certification Request for the Work Opportunity Tax Credit* and the instructions for Form 8850 have been revised. The August 2009 updated form and the revised Instructions are available at: www.irs.gov.
 - **ETA Form 9061.** In addition to the changes discussed above, ETA added new examples of documentary evidence for all veterans. The August 2009 revised form is attached and available online at: <http://www.doleta.gov/business/Incentives/opptax>.
 - **Reporting Instructions and Requirements.** Pursuant to the Paperwork Reduction Act of 1995, OMB recently approved the information collection requested for the updated WOTC reporting and administrative forms without substantial changes. Current OMB No. 1205-0371 data collection approval covers ETA Form 9058 - Report 1 and ETA administrative and

processing forms 9057, 9059, 9061-9063, and 9065 through November 30, 2011. The updated reporting and administrative/processing forms, Fact Sheet, the revised Spanish versions of IRS Form 8850 and ETA Form 9061, the revised April 2009 Addendum to the November 2002, Third Edition of ETA Handbook 408, and a revised Technical Assistance and Compliance Review Guide are available at:
<http://www.doleta.gov/business/Incentives/opptax>.

9. **Effective Date of Revised Forms.** Training and Employment Guidance Letter (TEGL) 11-08, Change 1, granted SWAs an indefinite extension period for the use of previously OMB-approved June 2007 ETA Forms 9061 or 9062. This TEGL terminates that extension period. For the two new groups added under the Recovery Act, employers and their representatives are required to start using the August 2009 OMB-approved ETA Form 9061 two weeks following the publication of this TEGL. SWAs are expected to also transition to using all revised forms and program materials at the end of this two-week period. After that date, other versions of ETA Forms 9061 and 9062 are not to be accepted by the SWAs.
10. **Technical Assistance.** Webinars focused on the two new targeted groups introduced by the Recovery Act and the amendments of 2006 and 2007 are scheduled for September 2009. The webinars will feature an entire session on the revised and updated reporting requirements.
11. **Action Requested.** SWA administrators are requested to:
 - provide this information to appropriate program staff, employers and their representatives, participating agencies (PAs), and other interested partners. They are to ensure that the SWAs and PAs administer the two new targeted group provisions in accordance with the guidance in this TEGL, the Handbook, the May 2009 Addendum to the Handbook, IR Notice 2009-28 and IR Notice 2009-69, and Section 51 of the IRC of 1986, as amended; and
 - ensure that state coordinators receive a copy of Section 1221 of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, 123 Stat. 115 (2009), which is attached to this TEGL as Attachment C, and copies of the updated and OMB-approved report, processing and administrative forms and all other updated program materials at:
<http://www.doleta.gov/business/incentives/opptax>.
12. **Inquiries.** Direct all questions to the appropriate Regional WOTC Coordinator.

13. Attachments.

- Attachment A₁. Notice 2009-28
- Attachment A₂. Notice 2009-69
- Attachment B. ETA Form 9061
- Attachment C. Section 1221 of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, 123 Stat. 115 (2009) (to be codified at 26 U.S.C. 51, 26 C.F.R. Pt. 1)

Part III - Administrative, Procedural, and Miscellaneous

Section 51 - Work Opportunity Tax Credit

Notice 2009-28

PURPOSE

Section 51 of the Internal Revenue Code (the Code) provides for a Work Opportunity Tax Credit (WOTC) for employers who hire individuals who are members of targeted groups. Section 1221 of the American Recovery and Reinvestment Tax Act of 2009 (ARRTA), enacted February 17, 2009, Div. B, Tit. I of Pub. L. No. 111-5, amended § 51 to add two new targeted groups for purposes of the WOTC. New § 51(d)(14) provides that unemployed veterans and disconnected youth who begin work for an employer during 2009 or 2010 shall be treated as members of a targeted group for purposes of the WOTC.

This notice provides sets forth the statutory definitions of “unemployed veteran” and “disconnected youth,” and provides guidance on the definition of “disconnected youth.” It also provides transition relief for employers who hire unemployed veterans or disconnected youth after December 31, 2008, and before July 17, 2009.

I. STATUTORY DEFINITION OF UNEMPLOYED VETERAN

For purposes of § 51(d)(14), the term “veteran” means any individual who is certified by the designated local agency (as defined in § 51(d)(12) as a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. § 49-49n)) as:

- (1) having served on active duty (other than active duty for training) in the Armed Forces of the United States (Armed Forces) for a period of more than 180 days; or
- (2) having been discharged or released from active duty in the Armed Forces for a service-connected disability.

Section 51(d)(14)(B)(i) provides that the term “unemployed veteran” means any veteran who is certified by the designated local agency as:

- (1) having been discharged or released from active duty in the Armed Forces at any time during the 5-year period ending on the hiring date; and
- (2) being in receipt of unemployment compensation under State or Federal law for not less than four weeks during the one-year period ending on the hiring date.

II. DISCONNECTED YOUTH

A. Statutory Definition

Section 51(d)(14)(B)(ii) provides that the term “disconnected youth” means any individual who is certified by the designated local agency:

- (I) as having attained age 16 but not age 25 on the hiring date;
- (II) as not regularly attending any secondary, technical, or post-secondary school during the 6-month period preceding the hiring date;
- (III) as not regularly employed during such 6-month period; and
- (IV) as not readily employable by reason of lacking a sufficient number of basic skills.

The Conference Agreement on ARRTA, H.R. Rep. No. 111-16, at 554, states:

For purposes of the disconnected youths, it is intended that a low level of formal education may satisfy the requirement that an individual is not readily employable by reason of lacking a sufficient number of skills. Further, it is intended that the Internal Revenue Service, when providing general guidance regarding the various new criteria, shall take into account the administrability of the program by the State agencies.

B. Not regularly attending any secondary, technical or post-secondary school

For purposes of § 51(d)(14)(B)(ii)(II), the term “not regularly attending” means that the individual states in writing that during the six months preceding his or her hiring date, he or she has not attended a secondary, technical or postsecondary school for more than an average of 10 hours per week, not counting periods during which the school is closed for scheduled vacations.

For purposes of § 51(d)(14)(B)(ii), the term “secondary school” means:

- (1) A secondary school as defined in 20 U.S.C. § 7801(38); or
- (2) a for-profit secondary school that otherwise meets the definition in 20 U.S.C. § 7801(38).

A General Education Development (GED) program is not a secondary school for purposes of § 51(d)(14)(B)(ii).

For purposes of § 51(d)(14)(B)(ii) and § 51(d)(14)(B)(ii)(IV), the terms “technical school” and “post-secondary school” mean institutions of higher education as defined in 20 U.S.C. §§ 1001; 1002(a)(1), (b) and (c); and 1059c(b)(3).

C. Not regularly employed

For purposes of section 51(d)(14)(B)(ii)(III), an individual was not regularly employed if, during each consecutive three-month period within the six months preceding his or her hiring date, the individual earned less than an amount equal to the gross amount he or she would have been paid at the minimum wage if he or she worked 30 hours every week during the three-month period.

For purposes of the preceding sentence, "minimum wage" is the higher of (1) the federal minimum wage (as defined in 29 U.S.C. section 206(a)(1)) or (2) the generally applicable State minimum wage (if any).

D. Not readily employable by reason of lacking a sufficient number of basic skills

For purposes of § 51(d)(14)(B)(ii)(IV), an individual is not readily employable by reason of lacking a sufficient number of basic skills if the individual states in writing that he or she does not have a certificate of graduation from a secondary school or a GED Certificate. For purposes of § 51(d)(14)(B)(ii)(IV), an individual also is not readily employable by reason of lacking a sufficient number of basic skills if the individual states in writing that he or she has a certificate of graduation from a secondary school or a GED Certificate that was awarded no less than 6 months preceding his or her hiring date and has not held a job or been admitted to a technical school or post-secondary school since receiving the certificate.

EFFECTIVE DATE

New § 51(d)(14) is effective for individuals who begin work for the employer after December 31, 2008, and before January 1, 2011.

TRANSITION RELIEF

Section 51(d)(13) provides that an individual shall not be treated as a member of a targeted group unless the employer obtains certification from a designated local agency on or before the day the individual begins work that the individual is a member of a targeted group or completes a pre-screening notice (IRS Form 8850) on or before the day the individual is offered employment and submits such notice to the designated local agency to request certification not later than 28 days after the individual begins work. However, under this notice, any employer who hires an unemployed veteran or a disconnected youth (as defined in § 51(d)(14)) after December 31, 2008, and before July 17, 2009, will be considered to satisfy the deadline in § 51(d)(13)(A)(ii)(II) if the employer submits the pre-screening notice to the designated local agency to request certification not later than August 17, 2009.

DRAFTING INFORMATION

The principal author of this notice is Robin Ehrenberg of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other individuals participated in its development. For further information regarding this notice contact Ms. Ehrenberg at (202) 622-6080 (not a toll-free call).

Part III - Administrative, Procedural, and Miscellaneous

Section 51 - Work Opportunity Tax Credit

Notice 2009-69

PURPOSE

This Notice clarifies Notice 2009-28, 2009-24 I.R.B. 1082, published on June 15, 2009. As explained in Notice 2009-28, § 51 of the Internal Revenue Code (the Code) provides for a Work Opportunity Tax Credit (WOTC) for employers who hire individuals who are members of targeted groups. Section 1221 of the American Recovery and Reinvestment Tax Act of 2009 (ARRTA), enacted February 17, 2009, Div. B, Tit. I of Pub. L. No. 111-5, amended § 51 to add two new targeted groups for purposes of the WOTC. New § 51(d)(14) provides that unemployed veterans and disconnected youth who begin work for an employer during 2009 or 2010 shall be treated as members of a targeted group for purposes of the WOTC.

Notice 2009-28 sets forth the statutory definitions of “unemployed veteran” and “disconnected youth,” and provides guidance on the definition of “disconnected youth.” With respect to “disconnected youth,” Notice 2009-28 is being revised to clarify § 51(d)(14)(B)(ii)(IV), the definition of “not readily employable by reason of lacking a sufficient number of basic skills.”

Section D of Notice 2009-28 is therefore revised to read as follows:

For purposes of § 51(d)(14)(B)(ii)(IV), an individual is not readily employable by reason of lacking a sufficient number of basic skills if the individual states in writing that he or she does not have a certificate of graduation from a secondary school or a GED Certificate. For purposes of § 51(d)(14)(B)(ii)(IV), an individual also is not readily employable by reason of lacking a sufficient number of basic skills if the individual states in writing that he or she has a certificate of graduation from a secondary school or a GED Certificate that was awarded no less than 6 months preceding his or her hiring date and has not held a job (other than occasionally) or been admitted to a technical school or post-secondary school since receiving the certificate.

This clarifies that an individual who received a high school diploma or GED certificate at least six months prior to the hiring date and who otherwise satisfies the requirements for a disconnected youth will not fail to qualify as a disconnected youth merely because the individual has been employed at times since graduation, as long as that employment was no more than occasional.

TRANSITION RELIEF

Section 51(d)(13) provides that an individual shall not be treated as a member of a targeted group unless the employer obtains certification from a designated local agency on or before the day the individual begins work that the individual is a member of a targeted group or completes a pre-screening notice (IRS Form 8850) on or before the day the individual is offered employment and submits such notice to the designated local agency to request certification not later than 28 days after the individual begins work. Notice 2009-28 provides that any employer who hires an unemployed veteran or a disconnected youth (as defined in § 51(d)(14)) after December 31, 2008, and before July 17, 2009, will be considered to satisfy the deadline in § 51(d)(13)(A)(ii)(II) if the employer submits the pre-screening notice to the designated local agency to request certification not later than August 17, 2009. This notice extends the transition relief in Notice 2009-28. Specifically, under this notice, any employer who hires an unemployed veteran or disconnected youth (as defined in § 51(d)(14)) after December 31, 2008, and before September 17, 2009, will be considered to satisfy the deadline in § 51(d)(13)(A)(ii)(II) if the employer submits the pre-screening notice to the designated local agency to request certification not later than October 17, 2009.

EFFECT ON OTHER DOCUMENTS

Notice 2009-28, 2009-24 I.R.B. 1082, is clarified.

DRAFTING INFORMATION

The principal author of this notice is Robin Ehrenberg of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other individuals participated in its development. For further information regarding this notice contact Ms. Ehrenberg at (202) 622-6080 (not a toll-free call).

**Individual Characteristics Form (ICF)
Work Opportunity Tax Credit**

U.S. Department of Labor
Employment and Training Administration

1. Control No. (For Agency use only)		APPLICANT INFORMATION (See instructions on reverse)	OMB No. 1205-0371
			Expiration Date: November 30, 2011
		2. Date Received (For Agency Use only)	
EMPLOYER INFORMATION			
3. Employer Name		4. Employer Address and Telephone	5. Employer Federal ID Number (EIN)
APPLICANT INFORMATION			
6. Applicant Name (Last, First, MI)		7. Social Security Number	8. Have you worked for this employer before? Yes ___ No ___ If YES, enter last date of employment: _____
APPLICANT CHARACTERISTICS FOR WOTC TARGET GROUP CERTIFICATION			
9. Employment Start Date		10. Starting Wage	11. Position
12. Are you at least age 16, but under age 40? If YES, enter your <i>date of birth</i> _____			Yes ___ No ___
13. Are you a Veteran of the U.S. Armed Forces? If NO, go to Box 14. If YES, are you a member of a family that received Supplemental Nutritional Assistance Program (SNAP) (Food Stamps) benefits for at least a 3-month period during the 15-month period ending on your hire date? If YES, enter name of <i>primary recipient</i> _____ and <i>city and state</i> where benefits were received _____. OR, are you a veteran entitled to compensation for a service-connected disability? If YES, were you discharged or released from active duty within the year before you were hired? OR, were you unemployed for a combined period of at least 6 months during the year before you were hired?			Yes ___ No ___ Yes ___ No ___ Yes ___ No ___ Yes ___ No ___
14. Are you a member of a family that received SNAP (Food Stamps) benefits for the 6-month period before you were hired? OR, received SNAP benefits for at least a 3-month period within the last 5 months But you are no longer receiving them? If YES to either question, enter name of <i>primary recipient</i> _____ and <i>city and state</i> where benefits were received _____.			Yes ___ No ___ Yes ___ No ___

<p>15. Were you referred to an employer by a Vocational Rehabilitation Agency approved by a state? Yes ___ No ___</p> <p>OR, by an Employment Network under the Ticket to Work Program? Yes ___ No ___</p> <p>OR, by the Department of Veterans Affairs? Yes ___ No ___</p>	
<p>16. Are you a member of a family that received Temporary Assistance to Needy Families (TANF) for at least the last 18 months before you were hired? Yes ___ No ___</p> <p>OR, are you a member of a family that received TANF benefits for any 18 months beginning after August 5, 1997, and the earliest 18-month period beginning after August 5, 1997, ended within 2 years before you were hired? Yes ___ No ___</p> <p>OR, did your family stop being eligible for TANF assistance within 2 years before you were hired because a Federal or state law limited the maximum time those payments could be made? Yes ___ No ___</p> <p>If NO, are you a member of a family that received TANF assistance for any 9 months during the 18-month period before you were hired? Yes ___ No ___</p> <p>If YES, to any question, enter name of <i>primary recipient</i> _____ and the <i>city and state</i> where benefits were received _____.</p>	
<p>17. Were you convicted of a felony or released from prison after a felony conviction during the year before you were hired? Yes ___ No ___</p> <p>If YES, enter <i>date of conviction</i> _____ and <i>date of release</i> _____.</p> <p>Was this a Federal ___ or a State ___ conviction? (Check one)</p>	
<p>18. Do you live, and plan to continue living, in an Empowerment Zone or Renewal Community? Yes ___ No ___</p> <p>OR, in a Rural Renewal County (RRC)? Yes ___ No ___</p> <p>If YES, enter <i>name of the RRC</i>: _____</p>	
<p>19. Did you receive Supplemental Security Income (SSI) benefits for any month ending within 60 days before you were hired? Yes ___ No ___</p>	
<p>20. Are you an unemployed veteran who served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days? Yes ___ No ___</p> <p>OR were you discharged or released from active duty in the Armed Forces for a service-connected disability? Yes ___ No ___</p> <p>If YES, where you discharged or released from active duty in the Armed Forces at any time during the 5-year period ending on the hiring date? Yes ___ No ___</p> <p>If YES, did you receive unemployment compensation for not less than four weeks during the one-year period ending on your hiring date? Yes ___ No ___</p>	
<p>21. Are you at least age 16 but under age 25? Yes ___ No ___</p> <p>If YES, did you not regularly attend any secondary, technical, or post-secondary school during the 6-month period before your hiring date? Yes ___ No ___</p> <p>If YES, were you not regularly employed during that 6-month period? Yes ___ No ___</p> <p>If YES, were you not employable because you lacked basic skills? Yes ___ No ___</p>	
<p>22. Sources used to document eligibility: (Employers/Consultants: List all documentation provided or forthcoming. SWAs: List all documentation used in determining target group eligibility and enter your initials and date when determination was made.)</p>	
<p>I certify that this information is true and correct to the best of my knowledge. I understand that the information above may be subject to verification.</p>	
<p>23(a). Signature: (See instructions in Box 23b for who signs this signature block)</p>	<p>23. (b) Indicate with a ✓ who signed the form:</p> <p><input type="checkbox"/> Employer, <input type="checkbox"/> Consultant, <input type="checkbox"/> SWA,</p> <p><input type="checkbox"/> Participating Agency, <input type="checkbox"/> Applicant, or</p> <p><input type="checkbox"/> Parent/Guardian (if applicant is a minor)</p>
<p>24. Date:</p>	

INSTRUCTIONS FOR COMPLETING THE INDIVIDUAL CHARACTERISTICS FORM (ICF), ETA 9061. This form is used together with IRS Form 8850 to help state workforce agencies (SWAs) determine eligibility for the Work Opportunity Tax Credit (WOTC) Program. The form may be completed, on behalf of the applicant, by: 1) the employer or employer representative, the SWA, a participating agency, or by 2) the applicant directly (if a minor, the parent or guardian must sign the form) and signed by the individual completing the form. This form is required to be used, without modification, by all employers (or their representatives) seeking WOTC certification.

Boxes 1 and 2. **SWA.** For agency use only.

Boxes 3-5. **Employer Information.** Enter the name, address including ZIP code, telephone number, and employer Federal ID number (EIN) of the employer requesting the certification for the WOTC. Do not enter information pertaining to the employer's representative, if any.

Boxes 6-11. **Applicant Information.** Enter the applicant's name and social security number as they appear on the applicant's social security card. In Box 8, indicate whether the applicant previously worked for the employer, and If Yes, enter the last date or approximate last date of employment. This information will help the "48-hour" reviewer, early in the verification process, to eliminate requests for former employees and to issue denials to these type of requests, or certifications in the case of "qualifying rehires" during valid "breaks in employment" (see pages III-12 and III-13, Nov. 2002, Third Ed., ETA Handbook 408) during the first year of employment.

Boxes 12-21. **Applicant Characteristics.** Read questions carefully, answer each question, and provide additional information where requested.

Box 22 **Sources to Document Eligibility.** The applicant or employer is requested to provide documentary evidence to substantiate the **YES answers on page 1.** List or describe the documentary evidence that is attached to the ICF or that will be provided to the SWA. Indicate in parentheses next to each document listed whether it is attached (A) or forthcoming (F). Some examples of acceptable documentary evidence are provided below. **Employers:** A letter from the agency that administers a relevant program may be furnished specifically addressing the question to which the applicant answered YES. For example, if an applicant answers YES to either question in Box 14 and enters the name of the primary recipient and the city and state in which the benefits were received, the applicant could provide a letter from the appropriate Food Stamp agency stating to whom Food Stamp benefits were paid, the months for which they were paid, and the names of the individuals included on the grant for each month. SWAs will use this box to document the sources used when verifying target group eligibility, followed by their initials and the date the determination was completed.

Examples of Documentary Evidence and Collateral Contacts. Employers/Consultants: You may check with your SWA to find out what other sources you can use to prove target group eligibility. (You are encouraged to provide copies of documentation or names of collateral contacts for each question for which you answered **YES.**)

QUESTION 12³

- Birth Certificate
- Driver's License
- School I.D. Card¹
- Work Permit¹
- Federal/State/Local Gov't I.D.¹
- Copy of Hospital Record of Birth

QUESTION 13

- DD-214 or Discharge Papers
- Reserve Unit Contacts
- FL 21-802 (Issued ONLY by DVA, certifies a Veteran with a service connected disability)
- UI claims records (for unemployed status)

QUESTIONS 14 & 16

- TANF/SNAP (Food Stamp) Benefit History
- Signed Statement from Authorized Individual with Specific Description of the Months Benefits Were Received
- Case Number Identifier

QUESTION 15

- Vocational Rehabilitation Agency Contact
- Veterans Administration
- Signed Statement from Authorized Individual With Specific Description of Months Benefits Received
- **For SWAs:** To determine *Ticket Holder* (TH) eligibility, Fax page 1 of Form 8850 to MAXIMUS to 703-683-1051 to verify if applicant:
1) is a TH, and 2) has an Individual Work Plan from an Employment Network.

QUESTION 17

- Parole Officer's Name or Statement
- Correction Institution Records
- Court Records Extracts

QUESTION 18

- Driver's License
- Work Permit
- Utility Bills
- W-4
- Lease Papers or Landlord's Statement
- School¹ or Library Card²
- Voter Registration Card
- SNAP (Food Stamp) Award Letter
- Selective Service Registration Card
- Social Security Letter
- To determine if a Designated Community Resident lives in a RRC, visit the site: www.usps.com. **Click on Find Zip Code; Enter & Submit Address/Zip Code; Click on Mailing Industry Information; Download and Print the Information,** then compare the county of the address to the list in the June 2007 Instructions to IRS 8850.

QUESTION 19

- SSI Record or Authorization
- SSI Contact
- Evidence of SSI Benefits

Notes. 1. Where a Federal/State/Local Gov't., School I.D. Card, or Work Permit does not contain age or birth date, another valid document must be obtained to verify an individual's age.
2. Where a Library Card does not contain the holder's address another document, issued in the jurisdiction where the EZ/RC or RR County is located, must be obtained showing the holder's address.
3. ESPL No. 05-98, dated 3/18/98, officially rescinded the authority to use Form I-9 as proof of age and residence. **Therefore, the I-9 is no longer a valid piece of documentary evidence.**

QUESTION 20

- DD-214
- FL 21-802 (Issued ONLY by DVA, certifies a Veteran with a service connected disability)
- Discharge Papers
- UI claims records (for unemployed status)

QUESTION 21

To determine age:

- Birth Certificate
- Driver's License
- Work Permit
- Copy of Hospital Record of Birth
- School I.D. Card/School Records
- Federal/State/Local Government I.D.

To determine youth has not regularly attended any secondary, technical or post secondary school:

- Self-Attestation
- Signed letter from parent/guardian (if minor)

To determine unemployed status during the 6-month period before hiring date:

- UI Wage Records

To determine unemployable status due to lack of basic skills:

- Self-Attestation that he/she has a high school (HS) or GED Certificate that was awarded no less than 6 months preceding his or her hiring date and has not held a job (other than occasionally) or been admitted to a technical school or post-secondary school since receiving the certificate.

Box 23. **Signature.** The person who completes the form signs the signature block. **Options:** (a) Employer or Authorized Representative, (b) SWA staff, (c) Participating Agency staff, or (d) Applicant (If applicant is a minor, the parent or guardian must sign).

Box 24: **Date.** Enter the month, day and year when the form was completed.

Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Respondent's obligation to reply to these questions is required to obtain and retain benefits per public law 104-188. Public reporting burden for this collection of information is estimated to average 20 minutes per response including the time for reading instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden to the U.S. Department of Labor, Employment and Training Administration, Division of Adult Services, Room S-4209, Washington, D.C. 20210 (Paperwork Reduction Project Control No. 1205-0371).

..... ✂
(Cut along dotted line and keep in your files)

TO: THE JOB APPLICANT OR EMPLOYEE,

THE INFORMATION AND THE SUPPORTING DOCUMENTATION YOU HAVE PROVIDED IN COMPLETING THIS FORM —OR IN SOME CASES OTHER INFORMATION THAT COULD VERIFY THE RESPONSES YOU HAVE GIVEN TO THE ITEMS/QUESTIONS IN THIS FORM— WILL BE DISCLOSED BY YOUR EMPLOYER TO THE STATE WORKFORCE AGENCY (SWA). ENTER THE SWA'S NAME BELOW:

IN ORDER TO QUALIFY FOR A FEDERAL EMPLOYER TAX CREDIT, PROVISION OF THIS INFORMATION IS VOLUNTARY. HOWEVER, THE INFORMATION IS REQUIRED FOR YOUR EMPLOYER TO RECEIVE THE FEDERAL TAX CREDIT. IF THE INFORMATION YOU PROVIDE IS ABOUT A MEMBER OF YOUR FAMILY, YOU SHOULD PROVIDE HIM or HER A COPY OF THIS NOTICE.

123 STAT. 306

PUBLIC LAW 111-5—FEB. 17, 2009

**DIVISION B—TAX, UNEMPLOYMENT,
HEALTH, STATE FISCAL RELIEF, AND
OTHER PROVISIONS**

TITLE I—TAX PROVISIONS

**American
Recovery and
Reinvestment
Tax Act of 2009, Section 1221**

26 USC 1 *et seq.*

26 USC 1 note.

SEC. 1000. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the “American Recovery and Reinvestment Tax Act of 2009”.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE I—TAX PROVISIONS

Sec. 1000. Short title, etc.

**Subtitle A—Tax Relief for Individuals and Families
PART I—GENERAL TAX RELIEF**

Sec. 1001. Making work pay credit.

Sec. 1002. Temporary increase in earned income tax credit.

Sec. 1003. Temporary increase of refundable portion of child credit.

Sec. 1004. American opportunity tax credit.

Sec. 1005. Computer technology and equipment allowed as a qualified higher education expense for section 529 accounts in 2009 and 2010.

Sec. 1006. Extension of and increase in first-time homebuyer credit; waiver of requirement to repay.

Sec. 1007. Suspension of tax on portion of unemployment compensation.

Sec. 1008. Additional deduction for State sales tax and excise tax on the purchase of certain motor vehicles.

PART II—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 1011. Extension of alternative minimum tax relief for nonrefundable personal credits.

Sec. 1012. Extension of increased alternative minimum tax exemption amount.

Subtitle B—Energy Incentives

PART I—RENEWABLE ENERGY INCENTIVES

Sec. 1101. Extension of credit for electricity produced from certain renewable resources.

Sec. 1102. Election of investment credit in lieu of production credit.

Sec. 1103. Repeal of certain limitations on credit for renewable energy property.

Sec. 1104. Coordination with renewable energy grants.

PART II—INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

Sec. 1111. Increased limitation on issuance of new clean renewable energy bonds.

Sec. 1112. Increased limitation on issuance of qualified energy conservation bonds.

PART III—ENERGY CONSERVATION INCENTIVES

Sec. 1121. Extension and modification of credit for nonbusiness energy property.

Sec. 1122. Modification of credit for residential energy efficient property.

Sec. 1123. Temporary increase in credit for alternative fuel vehicle refueling property.

PART IV—MODIFICATION OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION

Sec. 1131. Application of monitoring requirements to carbon dioxide used as a tertiary injectant.

PART V—PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES

- Sec. 1141. Credit for new qualified plug-in electric drive motor vehicles.
- Sec. 1142. Credit for certain plug-in electric vehicles.
- Sec. 1143. Conversion kits.
- Sec. 1144. Treatment of alternative motor vehicle credit as a personal credit allowed against AMT.

PART VI—PARITY FOR TRANSPORTATION FRINGE BENEFITS

- Sec. 1151. Increased exclusion amount for commuter transit benefits and transit passes.

Subtitle C—Tax Incentives for Business

PART I—TEMPORARY INVESTMENT INCENTIVES

- Sec. 1201. Special allowance for certain property acquired during 2009.
- Sec. 1202. Temporary increase in limitations on expensing of certain depreciable business assets.

PART II—SMALL BUSINESS PROVISIONS

- Sec. 1211. 5-year carryback of operating losses of small businesses.
- Sec. 1212. Decreased required estimated tax payments in 2009 for certain small businesses.

PART III—INCENTIVES FOR NEW JOBS

- Sec. 1221. Incentives to hire unemployed veterans and disconnected youth.**

PART IV—RULES RELATING TO DEBT INSTRUMENTS

- Sec. 1231. Deferral and ratable inclusion of income arising from business indebtedness discharged by the reacquisition of a debt instrument.
- Sec. 1232. Modifications of rules for original issue discount on certain high yield obligations.

PART V—QUALIFIED SMALL BUSINESS STOCK

- Sec. 1241. Special rules applicable to qualified small business stock for 2009 and 2010.

PART VI—S CORPORATIONS

Sec. 1251. Temporary reduction in recognition period for built-in gains tax.

PART VII—RULES RELATING TO OWNERSHIP CHANGES

Sec. 1261. Clarification of regulations related to limitations on certain built-in losses following an ownership change.

Sec. 1262. Treatment of certain ownership changes for purposes of limitations on net operating loss carryforwards and certain built-in losses.

Subtitle D—Manufacturing Recovery Provisions

Sec. 1301. Temporary expansion of availability of industrial development bonds to facilities manufacturing intangible property.

Sec. 1302. Credit for investment in advanced energy facilities.

Subtitle E—Economic Recovery Tools

Sec. 1401. Recovery zone bonds.

Sec. 1402. Tribal economic development bonds.

Sec. 1403. Increase in new markets tax credit.

Sec. 1404. Coordination of low-income housing credit and low-income housing grants.

Subtitle F—Infrastructure Financing Tools

PART I—IMPROVED MARKETABILITY FOR TAX-EXEMPT BONDS

Sec. 1501. De minimis safe harbor exception for tax-exempt interest expense of financial institutions.

Sec. 1502. Modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions.

Sec. 1503. Temporary modification of alternative minimum tax limitations on taxexempt bonds.

Sec. 1504. Modification to high speed intercity rail facility bonds.

**PART II—DELAY IN APPLICATION OF WITHHOLDING TAX ON
GOVERNMENT CONTRACTORS**

Sec. 1511. Delay in application of withholding tax on government contractors.

A certification under subclause (II) shall be in such form and manner and filed at such time as the Secretary may by regulations prescribe.

“(iii) INCOME FROM A SMALL BUSINESS.—For purposes of clause (ii), income from a small business means, with respect to any individual, income from a trade or business the average number of employees of which was less than 500 employees for the calendar year ending with or within the preceding taxable year of the individual.

“(iv) SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (ii)(I) shall be applied by substituting ‘\$250,000’ for ‘\$500,000’.

“(v) ESTATES AND TRUSTS.—In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).”.

PART III—INCENTIVES FOR NEW JOBS

SEC. 1221. INCENTIVES TO HIRE UNEMPLOYED VETERANS AND DISCONNECTED YOUTH.

(a) IN GENERAL.—Subsection (d) of section 51 is amended by adding at the end the following new paragraph:

“(14) CREDIT ALLOWED FOR UNEMPLOYED VETERANS AND DISCONNECTED YOUTH HIRED IN 2009 OR 2010.—

“(A) IN GENERAL.—Any unemployed veteran or disconnected youth who begins work for the employer during 2009 or 2010 shall be treated as a member of a targeted group for purposes of this subpart.

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) UNEMPLOYED VETERAN.—The term ‘unemployed veteran’ means any veteran (as defined in paragraph (3)(B), determined without regard to clause (ii) thereof) who is certified by the designated local agency as—

“(I) having been discharged or released from active duty in the Armed Forces at any time during the 5-year period ending on the hiring date, and

“(II) being in receipt of unemployment compensation under State or Federal law for not less

than 4 weeks during the 1-year period ending on the hiring date.

“(ii) DISCONNECTED YOUTH.—The term ‘disconnected youth’ means any individual who is certified by the designated local agency—

“(I) as having attained age 16 but not age 25 on the hiring date,

“(II) as not regularly attending any secondary, technical, or post-secondary school during the 6-month period preceding the hiring date,

“(III) as not regularly employed during such 6-month period, and

“(IV) as not readily employable by reason of lacking a sufficient number of basic skills.”.

26 USC 51.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2008.

PART IV—RULES RELATING TO DEBT INSTRUMENTS

SEC. 1231. DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM BUSINESS INDEBTEDNESS DISCHARGED BY THE REACQUISITION OF A DEBT INSTRUMENT.

(a) IN GENERAL.—Section 108 (relating to income from discharge of indebtedness) is amended by adding at the end the following new subsection:

“(i) DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM BUSINESS INDEBTEDNESS DISCHARGED BY THE REACQUISITION OF A DEBT INSTRUMENT.—

“(1) IN GENERAL.—At the election of the taxpayer, income from the discharge of indebtedness in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument shall be includible in gross income ratably over the 5-taxable-year period beginning with—

“(A) in the case of a reacquisition occurring in 2009, the fifth taxable year following the taxable year in which the reacquisition occurs, and

“(B) in the case of a reacquisition occurring in 2010, the fourth taxable year following the taxable year in which

the reacquisition occurs.